



# UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/825,430

04/16/2004

Hirokazu Sakai

252010US0

9934

22850

7590

08/14/2008

OBLON, SPIVAK, MCCLELLAND MAIER & NEUSTADT, P.C.  
1940 DUKE STREET  
ALEXANDRIA, VA 22314

EXAMINER

VENKAT, JYOTHSNA A

ART UNIT

PAPER NUMBER

1615

NOTIFICATION DATE

DELIVERY MODE

08/14/2008

ELECTRONIC

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patentdocket@oblon.com  
oblonpat@oblon.com  
jgardner@oblon.com

<b>Office Action Summary</b>	<b>Application No.</b> 10/825,430	<b>Applicant(s)</b> SAKAI ET AL.	
	<b>Examiner</b> JYOTHSNA A. VENKAT	<b>Art Unit</b> 1615	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 01 July 2008.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-8 and 10-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 and 10-20 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)          | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____                                      |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)          | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

### **DETAILED ACTION**

Receipt is acknowledged of amendment and remarks filed on 5/1/08 and 7/1/08. Receipt is also acknowledged of certified translated foreign priority document filed on 5/1/08. Claims 10-20 have been added as per applicants' amendment dated 5/15/08. Claims 1-8 and 10-20 are pending and claim 9 is withdrawn from consideration being drawn to non-elected subject matter.

In view of certified translated foreign priority document, the rejection of claims 1-18 under 102 (e) over commonly owned PGPUB US 2004/0516815 and PGPUB US 2004/0157984 is hereby withdrawn.

### ***Claim Rejections - 35 USC § 103***

Claims 1-8 and 10-20 are rejected under 35 U.S.C. 103(a) as being obvious over the combination of EP 1,166,766 ('766) and U. S. patent 5,876,705 ('705).

*The instant application is claiming hair cleansing composition comprising:*

- 1. Amphipathic amide lipid of formula 1*
- 2. compound belonging to B(species is ethylene glycol distearate)*
- 2. surfactant*
- 3. cationic polymer*

EP '766 teaches external preparation compositions. See the abstract, and see page 2, formula I for ingredient I claimed. see also pages 3-5 for the amide lipids , which are species belonging to formula I ( Ingredient 1). EP '766 at paragraph 22 teaches adding surfactants to compositions. The weight percent of the surfactant is 0.01-20% and the weight percent of amide lipid 0.001-50%. EP '766 at paragraph 24 teaches hair care applications and this includes shampoo. EP under this paragraph suggests adding components ordinarily employed in hair

Art Unit: 1615

cosmetics. Examples 3-4 are drawn to hair formulations. The difference between EP and the instant application is EP does not teach claimed species belonging to B and cationic polymer.

Patent '705 teaches conditioning shampoo compositions. See the abstract; see col.2, ll 25-30 for anionic, amphoteric and non-ionic surfactant. See col.s 4-5 and col.6, ll 1-34 for anionic surfactant. See col.6, ll 35-68 and col.s 7-8 and col.9, ll 1-6 for amphoteric surfactant, see col.9, ll 8-68 and col.10, ll 1-14 for non ionic surfactant, see col. 17, line 7 through col.19, line 27 for cationic polymers. Patent at col.2, ll 35-39 teaches conditioning agents and these can be silicones or cationic surfactant or cationic polymers. see col.19, ll 5-20 for claimed cationic cellulose and cationic guar gum. See paragraph bridging col.s 21-22 for suspending agents. Preferred suspending agent is claimed species(see col.21, ll 60-65). See also examples VI-X for ethylene glycol distearate, cationic polymer, which is polyquaternium 10 and surfactant.

Accordingly it would be obvious to one of ordinary skill in the art at the time the invention was made to modify the compositions of EP '7669 and combine with agents that are conventionally used in hair care like surfactants , cationic polymers and suspending agents taught by patent '705 expecting beneficial effect to hair. One of ordinary skill in the art would be motivated to add the ingredients of '705 with the reasonable expectation of success that the compositions which has the diamide provide moisturizing feel and silkiness to the hair and adding cationic polymers provide conditioning property to the hair and adding surfactant provide cleansing actions. Thus the compositions not only cleanse the hair but also provide moisturizing and conditioning properties to the hair. This is a prima facie case of obviousness.

Art Unit: 1615

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JYOTHSNA A. VENKAT whose telephone number is 571-272-0607. The examiner can normally be reached on Monday-Friday, 10:30-7:30:1st Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, MICHAEL WOODWARD can be reached on 571-272-8373. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/JYOTHSNA A VENKAT /  
Primary Examiner, Art Unit 1615